

EXHIBIT NO. 1

4
3-17-01

Docket Item # 3-B
ENCROACHMENT #2001-0001

Planning Commission Meeting
March 6, 2001

ISSUE: Consideration of a request for encroachment into the public sidewalk right-of-way for restaurant dining seating.

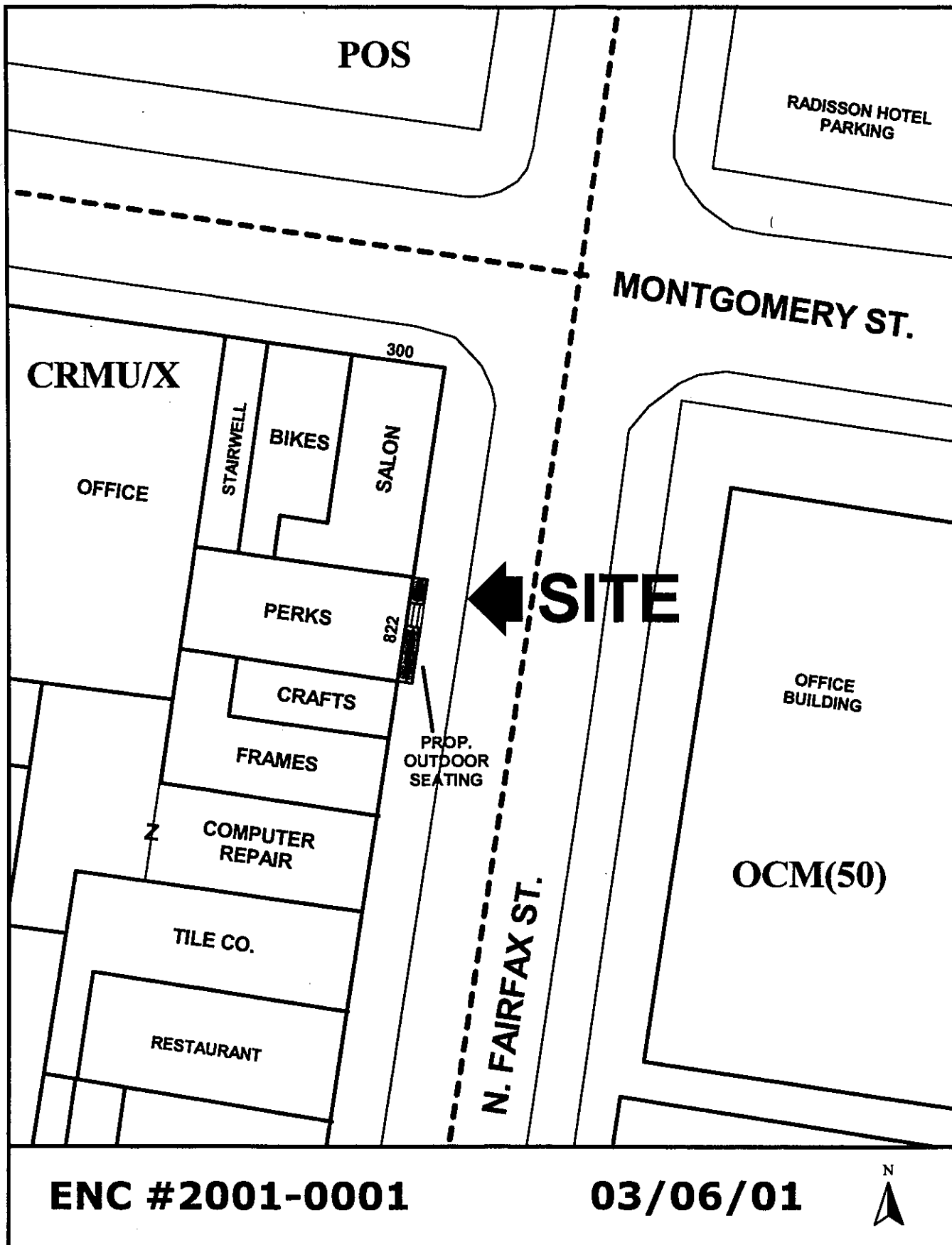
APPLICANT: Ms. Perky, LLC, trading as Perk's Coffee Shop
by Philip D. McCombie

LOCATION: 822 North Fairfax Street
The Montgomery Center
Perks Coffee Shop

ZONE: CRMU-X/Commercial Residential Mixed Use

PLANNING COMMISSION ACTION, MARCH 6, 2001 : By unanimous consent, the Planning Commission recommended approval of the request, subject to compliance with all applicable codes, ordinances and staff recommendations.

Reason: The Planning Commission agreed with the staff analysis.



SUMMARY

This is a request for a small, outdoor restaurant seating area in Old Town North, an amenity that staff supports.

STAFF RECOMMENDATION:

Staff recommends **approval** subject to compliance with all applicable codes and ordinances and the following conditions:

1. The applicant (and his or her successors, if any) obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his or her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment. (P&Z) (City Atty)
2. In the event the City shall, in the future, have need for the area of the proposed encroachment, the applicant shall remove any structure or projection that encroaches into the public right-of-way, within 60 days, upon notification by the City. (P&Z)
3. The outdoor seating shall be limited to four seats at two tables and one bench as depicted on the applicant's plans. (P&Z)
4. Dimensions of the proposed encroachment and its relationship to the existing right-of-way shall be shown in order to describe the area in the ordinance. (T&ES)

Staff Note: For commercial properties, the applicant and/or his successors are responsible for payment of an annual charge for such encroachment pursuant to Section 3-2-85 of the City Code.

DISCUSSION:

1. The applicant, Ms. Perky, LLC, trading as Perk's Coffee Shop, by Philip D. McCombie, requests approval for an encroachment for outdoor seating into the public sidewalk right-of-way at 822 North Fairfax Street.
2. The subject property is one lot of record which encompasses most of an entire city block with approximately 250 feet of frontage on Madison and Montgomery Streets, and 362 feet of frontage along North Fairfax and North Royal Streets. The Montgomery Center is a mixed use development of 92,395 square feet.
3. A restaurant (coffee shop) has operated in this location since 1997 when Council granted Special Use Permit. A new operator, Ms. Perky, L.L.C., trading as Perk's Coffee Shop, has filed a special use permit request to change the ownership of the restaurant and to expand it to include additional food items and outdoor seating (see SUP #2000-0146). The proposed outdoor seating will be located on the public right-of-way and requires an encroachment ordinance.
4. The applicant requests permission to provide two tables with two chairs each and one bench outside the restaurant (see attached plans). The City recently removed the concrete sidewalk and some plantings along the North Fairfax Street frontage of the Montgomery Center and installed brick pavers. The seating will be located adjacent to the building on the bricked area. The length of this area between the adjacent tenant space to the south and the steps that provide access to the restaurant is approximately 11 feet. Two tables with two seats at each table are proposed to be located in this area. One bench, described by the applicant as a garden-style bench that comfortably seats one adult, will be located adjacent to the steps to the north. The length of this area is approximately four feet. The proposed seating will not encroach farther onto the public right-of-way than the existing steps. The width of the sidewalk from the edge of the steps to the curb is approximately ten feet, and the proposed width of the sidewalk at its narrowest point, between the existing tree well and the seats and tables, will be approximately five feet.
5. The applicant has obtained a general liability insurance policy in the amount of \$1,000,000 to cover any personal injury and property damage claims.
6. The addition of the outdoor seating area, the change of ownership and expansion of the restaurant, is part of Special Use Permit #2000-0146, which will be heard by the Planning Commission on March 6, 2001.

7. Zoning: The subject property is located in the CRMU-X/Commercial Residential Mixed Use zone (Old Town North). Section 5-403(V) of the zoning ordinance allows a restaurant in the CRMU-X zone only with a special use permit.
8. Master Plan: The Old Town North small area plan chapter of the Master Plan anticipates redevelopment of the site and designates the property for commercial residential mixed use.

STAFF ANALYSIS:

Staff supports the applicant's request for an encroachment for 822 North Fairfax Street and believes outdoor seating in this area of the City should add a positive element of activity and interest for the adjacent commercial and residential neighborhoods. The proposed seating will be located adjacent to the building and will not encroach farther onto the public right-of-way than the existing steps that provide access to the restaurant. Staff believes that there will be sufficient room for pedestrian access past the proposed seats and recommends approval of the encroachment.

STAFF: Eileen P. Fogarty, Director, Department of Planning and Zoning;
Barbara Ross, Deputy Director;
Kathleen Beeton, Urban Planner.

CITY DEPARTMENT COMMENTS

Legend: C - code requirement R - recommendation S - suggestion F - finding

Transportation & Environmental Services:

- R-1 Dimensions of the proposed encroachment and its relationship to the existing right-of-way must be shown in order to describe the area in the ordinance.
- R-2 The applicant (and his/her successors, if any) obtain and maintain a policy of general liability insurance in the amount of \$1,000,000, which will indemnify the applicant (and his/her successors, if any) and the City of Alexandria, as an additional named insured, against all claims, demands, suits, etc., and all costs related thereto, including attorney fees, relating to any bodily injury or property damage which may occur as a result of the granting of this encroachment.

Code Enforcement:

- F-1 No comments.

Health Department:

- C-1 An Alexandria Health Department Permit is required for all regulated facilities. This facility is currently operating as Perk's Coffee Shop under health permit #16F-536-1 issued to Ms. Perky, LLC.
- C-2 All food must be protected to the point of service.
- C-3 If changes to the facility are to be done, five sets of plans must be submitted to and approved by this department prior to construction Plans must comply with the Alexandria City Code, Title 11, Chapter 2, Food and Food Establishments. There is a \$135.00 fee for review of plans for food facilities.
- C-4 Permits or approval must be obtained prior to use of the new area.
- C-5 This facility must comply with the Alexandria City Code, Title 11, Chapter 10, Smoking Prohibitions both indoors and at the outside dining areas.

ENC #2001-0001
822 N Fairfax St

- C-6 Certified Food Managers must be on duty during all hours of operation.
- C-7 Provide a menu or list of foods to be handled at this facility to the Health Department prior to opening. This facility currently is not allowed to perform any food preparation.

Police Department:

- F-1 No objections.

APPLICATION for ENCROACHMENT

ENC # 2001-0001

[must use black ink or type]

PROPERTY LOCATION: 822 N. FAIRFAX ST. ALEX. VA 22314

TAX MAP REFERENCE: 55.03-01-05 ZONE: CRMU-X

APPLICANT'S NAME: MS. PERKY, LLC, T/A PERK'S COFFEE SHOP

ADDRESS: 2181 JAMIESON AVE #908 ALEX. VA 22314

PROPERTY OWNER NAME: MONTGOMERY REAL ESTATE

ADDRESS: 300 MONTGOMERY ST. ALEXANDRIA VA 22314

ENCROACHMENT DESCRIPTION: The placing of 2 cafe tables and 1 bench plus 4 chairs, immediately outside coffee shop abutting property line.

INSURANCE CARRIER (copy attached) TRAVELERS PROPERTY CASUALTY POLICY # 1680972 H3059 INDO.

A certificate of general liability insurance in the amount of \$1,000,000 which will indemnify the owner and names the city as an additional insured must be attached to this application.

THE UNDERSIGNED hereby applies for an Encroachment Ordinance in accordance with the provisions of Section 8-1-16 and Sections 3-2-82 and 85 of the Code of the City of Alexandria, Virginia.

THE UNDERSIGNED, having obtained permission from the property owner, hereby grants permission to the City of Alexandria to post placard notice on the property for which this application is requested, pursuant to Article XI, Section 11-301 (B) of the 1992 Zoning Ordinance of the City of Alexandria, Virginia.

THE UNDERSIGNED also attests that all of the information herein provided and specifically including all surveys, drawings, etc., required of the applicant are true, correct and accurate to the best of their knowledge and belief.

PHILIP D. McCOMBIE
Print Name of Applicant or Agent


Signature

2181 JAMIESON AVE #908
Mailing/Street Address

(H) 703 566 0834 703 683 4143
Telephone # Fax #

(O) 703 708 3094

ALEXANDRIA VA 22314
City and State Zip Code

1/10/01
Date

DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY

Application Received: 1-10-01 Date & Fee Paid: 1-10-01 \$ 150.-

ACTION - PLANNING COMMISSION: _____

ACTION - CITY COUNCIL: _____

#3-B ENC. 2001-0001

Martin Meisel AIA Emeritus
314 Hearthstone Mews
Alexandria, Va. 22314
Tel. 703.739.2226 e-mail mmeisel@aol.com

Fax

To: Alexandria Planning Commission
Attention: Kathleen Beeton

From: Martin Meisel, Chair, Urban Design Committee, OTN

Fax: 703. 838. 6383

Pages: 1 [including this page]

Phone:

Date: 03/06/01

Re: Application #2001-0001/Perks

CC: Urban Design Planning Committee members

Urgent**x For your Review****Please Respond****Please Forward**

Members of the Alexandria Planning Commission, on February 6, 2001 the Urban Design Committee of Old Town North held an informal meeting at my residence to discuss the above application on February 6, 2001. There were four members attending. One of the members abstained from voting because of his association with the property.

After a very short discussion, the committee voted to support this application by a vote of three in favor and none opposed. We feel that outdoor seating along North Fairfax Street will enhance the streetscape and add activity and interest to this street where there is little public activity other than vehicular traffic.

We do however think that because of the tight space, the furniture should be of a size that is appropriate to such a space. I apologize that we could not have a formal public meeting to discuss this matter, but circumstances and personal schedules did not permit it.

Martin Meisel

(4)

APPLICATION for ENCROACHMENT

ENC # 2001-0001

[must use black ink or type]

PROPERTY LOCATION: 822 N. FAIRFAX ST. ALEX. VA 22314

TAX MAP REFERENCE: 55.03-01-05 ZONE: CRMU-X

APPLICANT'S NAME: MS. PERKY, LLC, T/A PERK'S COFFEE SHOP

ADDRESS: 2181 JAMIESON AVE #908 ALEX. VA 22314

PROPERTY OWNER NAME: MONTGOMERY REAL ESTATE

ADDRESS: 300 MONTGOMERY ST. ALEXANDRIA VA 22314

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PHILIP D. McCOMBIE
Print Name of Applicant or Agent


Signature

2181 JAMIESON AVE #908
Mailing/Street Address

(H) 703 566 0834 703 683 4143
Telephone # Fax #

(O) 703 708 3094

ALEXANDRIA VA 22314
City and State Zip Code

1/10/01
Date

===== **DO NOT WRITE BELOW THIS LINE - OFFICE USE ONLY** =====
Application Received: 1-10-01 Date & Fee Paid: 1-10-01 \$ 150.-

ACTION - PLANNING COMMISSION: 3-6-01 RECOMMEND APPROVAL uc

ACTION - CITY COUNCIL: 3/17/01PH -- See attached. (Separate Motion)

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

ACTION CONSENT CALENDAR (continued)

Planning Commission (continued)

5. SPECIAL USE PERMIT #2001-0003
1767 KING ST
SEAGAR'S RESTAURANT
KING STREET METROPLACE HILTON HOTEL
Public Hearing and Consideration of a review of a special use permit for a restaurant; zoned OCH/Office Commercial High. Applicant: LNR Alexandria Limited Partnership, by Harry P. Hart, attorney.

COMMISSION ACTION: Recommend approval 7-0

6. SPECIAL USE PERMIT #2000-0154
340 HOOFF'S RUN DR
VIRGINIA CONCRETE CO
Public Hearing and Consideration of a review of a special use permit for a concrete plant; zoned OCM-100/Office Commercial Medium. Applicant: Virginia Concrete Company, by Sarah Hall, attorney.

COMMISSION ACTION: Recommend approval 7-0

7. SPECIAL USE PERMIT #2000-0161
111-119 E REED AV
Public Hearing and Consideration of a request for a special use permit amendment for an extension of validity of the existing special use permit; zoned CSL/Commercial Service Low. Applicant: Alexandria One Associates, LP, by Duncan W. Blair, attorney.

COMMISSION ACTION: Recommend approval 7-0

END OF ACTION CONSENT CALENDAR

City Council approved the Consent Calendar as presented, with the exception of docket item nos. 3, 4 and 6 which were considered under separate motions. The Planning Commission's recommendations are as follows:

3. & 4. Councilwoman Eberwein noted, with respect to the outside seating, that there is room for another table and perhaps another bench. She commented that as cities try to encourage outdoor eating to enliven the space that we should not be too restrictive. Ms. Eberwein has spoken to staff and offered an amendment to condition #2 of docket item no. 3 as follows: "that additional seating could be provided as long as it meets the approval of the Planning staff and does not obstruct the sidewalk."

City Attorney Pessoa requested that the motion include a conforming amendment to condition #3 of docket item no. 4 which is limited to four seats and two tables and one bench; which request was acceptable to the maker and seconder of the motion.

Note: Docket item nos. 3 and 4 were considered under one motion.

REPORTS OF BOARDS, COMMISSIONS AND COMMITTEES (continued)

ACTION CONSENT CALENDAR (continued)

Planning Commission (continued)

3. City Council approved the Planning Commission recommendation, with the following amendment to condition #2 as follows: "that additional seating could be provided as long as it meets the approval of the Planning staff and does not obstruct the sidewalk." (Separate motion)

4. City Council approved the Planning Commission recommendation, with the following amendment to condition #3 as follows: "that additional seating could be provided as long as it meets the approval of the Planning staff and does not obstruct the sidewalk." (Separate motion)

5. City Council approved the Planning Commission recommendation.

6. Councilwoman Pepper commented about the concern that people have had that this may not be an appropriate use in the near future, and we need to be thinking about how we might want to handle that. In addition, she spoke to the potholes on this site, as well as the concern raised in condition #2 regarding dust control.

City Council approved the Planning Commission recommendation. (Separate motion)

7. City Council approved the Planning Commission recommendation.

END OF ACTION CONSENT CALENDAR

Council Action: _____

REPORTS AND RECOMMENDATIONS OF THE CITY MANAGER

8. Public Hearing on and Consideration of the Proposed Scope of Work for the Planned Study of Possible Locations for a New Visitors Center. (#16 2/28/01)

There was considerable discussion by the Members of City Council with respect to this item.

(A copy of a draft verbatim transcript of Council's discussion on this item is on file in the office of the City Clerk.)

Without objection, City Council closed the public hearing and will consider this item at its legislative meeting on Tuesday, March 27, 2001.

Council Action: _____